

Opinion
No. 1173

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

TAX DIVISION

JOSEPH M. BURTON
CLERK OF
SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
TAX DIVISION

APR 4 1979

FILED

SAMUEL BLACK STERRETT
HENRY HATCH DENT STERRETT, JR.
ANN STERRETT GRANDY,

Petitioners

v.

Docket No. 2270

DISTRICT OF COLUMBIA,

Respondent

ORDER

Pursuant to the Memorandum Order filed March 29, 1979,
the Court orders payment of refunds as follows:

1. Samuel Black Sterrett to receive \$276.93 plus
interest from the date of his payment on August 1, 1974.
2. Henry Hatch Dent Sterrett, Jr. to receive \$276.93
plus interest from the date of his payment on July 17, 1974.
3. Ann Sterrett Grandy to receive \$276.93 plus interest
from the date of her payment on July 22, 1974.

Date: April 3, 1979


JOHN GARRETT PENN
Judge

Samuel Black Sterrett, Pro se

Richard Aguglia, Esquire
Assistant Corporation Counsel

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

TAX DIVISION

JOSEPH M. BURTON
CLERK OF
SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
TAX DIVISION

SAMUEL BLACK STERRETT)
HENRY HATCH DENT STERRETT, JR.)
ANN STERRETT GRANDY,)

APR 3 1979

Petitioners)

FILED

v.)

Docket No. 2270

DISTRICT OF COLUMBIA,)

Respondent)

MEMORANDUM ORDER

The petitioners appeal from District of Columbia inheritance taxes assessed against them in 1974 as the result of the death of Helen Black Sterrett in 1972. Each one of the petitioners was assessed the amount of \$276.93 for a total of \$830.79 and that tax has been paid in full.

The Court has jurisdiction over this appeal pursuant to D. C. Code 1973, §§11-1201 and 47-2403.

I

The parties have entered into a stipulation of the pertinent facts which includes the admission of all relevant documents. The following facts and documents have been stipulated into evidence and now constitute the findings of fact in this case:

1. The decedent Helen Black Sterrett died domiciled in the District of Columbia on April 28, 1972 in possession of certificates indicating ownership of one hundred nine six hundredths of what is described as "the equitable interest in the real estate situated at the northeast corner of Fourth

and Main Streets, in the city of Columbus, Ohio, more particularly described in a Deed of Trust dated as of October 2, 1941, recorded in deed book 1176, page 355, Recorders Office, Franklin County, Ohio, the legal title to which is held by the Huntington National Bank of Columbus, Ohio, as Trustee under said Deed of Trust (Stip. Ex. A.)

2. The interests owned by the decedent at her death were valued at \$26,500.00 for Federal Estate Tax purposes. It is stipulated for the purpose of this proceeding that that valuation is correct.

3. A copy of the District of Columbia Inheritance Tax Return filed by the executors of the estate of Helen Black Sterrett July 24, 1973 and attached to petitioners' petition filed October 1, 1974 is stipulated to be a true copy of said return.

4. A copy of a United States Estate Tax Return in the name of Helen Black Sterrett, decedent, was stipulated to be a true copy of said United States Estate Tax Return. (Stip. Ex. B.)

5. Copies of notices of District of Columbia inheritance taxes due from Samuel B. Sterrett, Henry Hatch Dent Sterrett, Jr. and Ann Sterrett Grandy, all petitioners herein, are filed in this case and it was stipulated that the amounts of tax plus interest indicated thereon are the amounts in controversy in this proceeding. (Stip. Ex. C, D, and E.)

6. There are presently nineteen persons, including petitioners, in possession of certificates identical in language, except as to amount, to those in the possession of Helen Black Sterrett at the time of her death.

7. A copy of one of the certificates in the name of "Helen Black Sterrett" to which reference is made in Paragraph No. 1 of these findings of fact was filed in this case. (Stip. Ex. F.)

8. Following the death of Helen Black Sterrett certificates containing the identical language, excepting amount, as that contained in (Stip. Ex. F) were executed, upon demand of the executors, by the Trustee in the names of Samuel Black Sterrett, Henry Hatch Dent Sterrett, Jr. and Ann Sterrett Grandy, all petitioners herein.

9. The will of Helen Black Sterrett was not offered for probate nor made of record in the State of Ohio.

10. It was not required of petitioners that they show proof of probate or recording of the will of Helen Black Sterrett in order to entitle them to execution by the trustee of certificates in their names.

11. The real estate conveyed by deed of trust October 2, 1941 was subject to a 99 year lease renewable forever, and remained so subject at the time of decedent's death.

12. The executors of the estate of Helen Black Sterrett of whom Samuel Black Sterrett and Henry Hatch Dent Sterrett are petitioners herein, did not file an estate tax return in the State of Ohio on the estate of Helen Black Sterrett.

13. Samuel B. Sterrett, one of the co-executors herein, if called to testify in any trial of this matter, would testify that he did not prepare an Ohio tax return because he believed that the aggregate applicable exemptions exceeded the value of the certificates in issue.

14. Income received on account of the land trust certificates in question for the year 1972 was treated as "rents" on the U.S. information return (Form 1099) for recipients of miscellaneous income (Stip. Ex. G.).

II

The sole issue presented on this appeal is whether the decedent's interest in an Ohio land trust which was evidenced by land trust certificates is subject to the District of Columbia inheritance tax. The petitioners argue that it is not taxable in the District of Columbia since the certificates represent an interest in real property located in Ohio. The respondent argues, on the other hand, that the certificates are merely a right to receive rent and are not an interest in land and therefore are subject to the District of Columbia inheritance tax.

D. C. Code 1973, §47-1601 provides in part:

Taxes shall be imposed in relation to estates of decedents, the share of beneficiaries of such estates, and gifts as hereinafter provided:

(a) all real property and tangible and intangible personal property, or any interest therein, having its taxable situs in the District of Columbia, transferred from any person who may die seized or possessed thereof

The statute limits the District's right to tax to real property and tangible and intangible personal property "having its taxable situs in the District of Columbia". Thus, the decision in this case depends upon whether the decedent had an interest in land and that determination depends in turn on the law of the state where the land is located. See Restatement of Conflict of Laws, §239 (1934). Here, the Court looks to the law of Ohio. The courts of that state have held that land trust certificates represent an interest in real property. First National Bank of Cincinnati v. Rawson, 11 NE 2d 110 (Ohio Ct. App. 1937); Lima First American Trust Co. v. Graham, 6 NE 2d 33 (Ohio Ct. App. 1936). A similar result was reached by the Supreme Court in Senior v. Braden, 295 U.S. 422 (1935). Respondent has cited no Ohio law to the contrary. Accordingly, this Court rules on the facts of this case that the land trust certificates represented an interest in real property with its taxable situs without the District of Columbia. This being the case, that property is not taxable under Section 47-1601 and the petitioners are now entitled to a refund of those taxes.

O R D E R

It is hereby

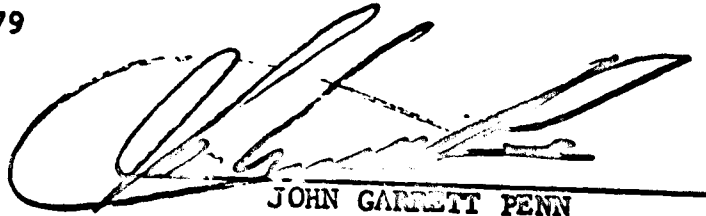
ORDERED that the petitioners are entitled to a refund of the taxes paid pursuant to the assessments made against them, with interest to be paid from the date of their payment of the tax^{*/}, together with interest to the date of the payment

^{*/} Cf. District of Columbia Redevelopment Land Agency v. District of Columbia, 104 Wash. L. Rptr. 749 (D.C. Super. Ct. 1976).

of the refund, as follows:

1. Samuel Black Sterrett to receive interest from the date of his payment on August 1, 1974.
2. Henry Hatch Dent Sterrett, Jr. to receive interest from the date of his payment on July 17, 1974.
3. Ann Sterrett Grandy to receive interest from the date of her payment on July 22, 1974.

Dated: March 29, 1979


JOHN GARRETT PENN
Judge

Samuel Black Sterrett, Pro se

Richard Aguglia, Esquire
Assistant Corporation Counsel

Copies mailed to parties in accordance with
to parties in accordance with

and to
Herbert Beck, Treasurer
Officer, DC.

A. Stanfield
4/1/79